

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
June 18, 2008

7:30 P.M.
Auditorium, Town Hall

Chairman Hillman called the meeting to order at 7:30 P.M. Commission Members Present: Peter Hillman, Rick Rohr, Michael Tone, Pete Kenyon, Ellen Kirby and Susan Cameron.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

EPC-28-2008, John & Anne Burleigh, 2 Crooked Mile, proposing pool removal, new pool construction, and kitchen addition within a regulated area. The site is shown on Assessor's Map #3 as Lot #57A.

Doug DiVesta, P.E represented the applicant.

Mr. Hillman asked if there was a reduction in impervious coverage. Mr. DiVesta said yes. They are also proposing plantings and the use of a diatomaceous earth filter.

Mr. Hillman asked the closest distance to the wetland from the pool. Mr. DiVesta said 26 feet.

Mr. Kenyon asked if they were removing the existing pool. Mr. DiVesta said yes, the concrete will be removed. The addition covers a portion of the pool.

Ms. Kirby asked about the condition of the pond. Mr. DiVesta said it appeared to be fairly clean and not stagnant.

Mr. Kenyon asked about the play set in the regulated area. Mr. DiVesta said they would consider moving it.

Ms. Cameron said she would like to see the silt fence extended around the pond and the area regularly policed to prevent debris in the pond.

Ms. Cameron made a motion to approve the application with stipulations including moving the play set out of the upland review area and extending the silt fence around the pond. Mr. Hillman seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-49-2007, Middlesex Club, 20 Echo Drive, requesting amendment to the permit to construct stone landscape wall.

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
June 18, 2008
PAGE 2

Mr. Flaherty was recused for this item.

Doug Van der Horn represented the applicant. He said they are proposing an 18" high wall as part of the landscaping. He said the wall is parallel to the flow of the river.

Mr. Hillman made a motion to approve the request. Mr. Tone seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-10-2008, Gloria Gouveia, 25 Brookside Road, proposing a revision to an approved two lot subdivision to construct one new house within the upland review area.

Mr. Hillman said he supported the application although he started out skeptical. He said the construction schedule of the modular company would be important.

Ms. Kirby said she was also OK with the application.

Mr. Flaherty said the previous approval was closer to the road. The new proposal is 14 feet closer. They are trying to make up for it by having less fill. He said he did not agree with the premise of a modular home as a reason for allowing the house closer to the river. He said he was concerned about impacts from increased impervious coverage and the impact on the conveyance capacity of the river. He is also against putting the homeowner closer to the river. He said the positive aspects are the increased floodplain storage and the increased mitigation.

Mr. Kenyon said the applicant provided increased storage at the request of the Commission. He said the modular home being installed quickly is a benefit. The applicant answered all of the Commission's requests regarding the mitigation.

Mr. Rohr said there is a viable alternative and moving the house closer to the river is not a good idea.

Mr. Hillman said the Commission will have to find a likely significant impact to deny the application. He said the Throckmorton letter was persuasive that there is increased mitigation.

Mr. Hillman noted for the record that Mr. Rohr is Disconnected Professional Engineer in Connecticut with 34 years of experience. He served on the Stamford EPB and the Westport Flood & Erosion Control Board.

Mr. Flaherty said for the record that he is a Licensee Professional Engineer in Connecticut with 14 years of experience with Redniss & Mead specializing in civil engineering and hydrology.

Mr. Tone said that at first he was suspicious of the application because it is a tight site with steep slopes and at first appearance it appeared likely that the structure would create significant runoff. He said the applicant accepted every mitigation request. He said he is in favor of the application

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
June 18, 2008
PAGE 3

because the mitigation efforts will offset any impacts. He said the construction process will need to be scrutinized carefully.

Mr. Hillman noted that there was no public opposition to the project.

Ms. Cameron said the area is under water in storms. She is concerned with future impacts from owners using the property.

Mr. Hillman said there would need to be a tight maintenance plan. Mr. Tone requested engineer's certifications for the project.

Staff will draft a resolution of approval for discussion.

Mr. Hillman read the next agenda item:

EPC-24-2008, William and Rose-Marie Shanahan, 58 Sunswyck Road, proposing driveway construction within a regulated area.

Mr. Rohr was recused for this application.

The Commission reviewed a draft resolution and made changes.

Mr. Hillman made a motion to approve the application. Mr. Kenyon seconded the motion and it passed 5-0. Ms. Cameron abstained.

Mr. Hillman read the next agenda item:

EPC-25-2008, Patrick and Jennifer Robinson, 88 Nearwater Lane, proposing house demolition and new house construction within an upland review area.

The Commission reviewed a draft resolution and made changes.

Ms. Cameron requested a stipulation that the pool filtration be a non-backwater discharging diatomaceous earth filtration type system. She made a motion to approve the application with the added stipulation. Mr. Rohr seconded the motion and it passed unanimously.

EPC-34-2008, Foster Kaali-Nagy, 70 Five Mile River Road, proposing dock ramp construction in an upland review area.

This item was continued to June 25.

Mr. Hillman read the next agenda item:

EPC-35-2008, Oakview Housing Trust, LLC, 26 Oak Crest Road, proposing demolition of existing residence, construction of 10 condominium units in two buildings, and related site development activities within an upland review area.

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
June 18, 2008
PAGE 4

Attorney Matt Ranelli represented the applicant.

Mr. Hillman said the application would require a public hearing because of the potential for significant impact to the Goodwives River and that a hearing would be in the public interest. He suggested July 23.

The Commission discussed retaining their own expert engineer to review the application. They decided to retain Joe Canas, P.E. of Tighe & Bond. The Commission also determined that a soil scientist would be retained to review the wetland soil boundary.

Mr. Kenyon asked for a copy of the soil survey report and a more legible map showing the wetlands and watercourse and upland review area.

Ms. Cameron asked that all trees to be removed over 12" dbh be flagged in the field.

The application was scheduled for hearing on July 23.

Mr. Hillman read the first public hearing item:

EPC-15-2008, Steven and Barbara Kiskin, 12 Brown Street, proposing demolition of existing house and new house construction within an upland review area.

Mr. Flaherty was recused for this application.

John Martucci represented the applicant. He said they have provided the items requested at the last hearing. They have prepared a planting plan and a rain garden plan. He said he reviewed the watershed study and the analysis of the Metro North culvert. He said there is an additional area of from the storm drainage system contributing to the culvert. He said they narrowed the proposed driveway and made a slight reduction in the impervious surface area from what is existing.

Mr. Hillman opened the hearing for public comment. No one from the public wished to speak. Mr. Hillman made a motion to close the public hearing. Mr. Tone seconded the motion and it passed unanimously.

The Commission proceeded to deliberate. The consensus of the members was that the application should be approved and staff was requested to prepare a draft approval resolution.

Mr. Hillman called the next public hearing items:

EPC-18-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 10), proposing an amendment to the Inland Wetlands and Watercourses Map, house demolition, and re-grading within 100 feet of Holly Pond.

EPC-19-2008, Mitchell and Kerry Ross, 10 Nickerson Lane (Lot 11), proposing an amendment to the Inland Wetlands and Watercourses Map, house demolition, and new house construction within 100 feet of Holly Pond.

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
June 18, 2008
PAGE 5

Attorney Robert Maslan represented the applicant. He said he had received Bill Kenny's report that the wetland boundary is accurate.

Mr. Hillman said the Commission would start by discussing the activities on Lot 10.

Mr. Hillman said that the Commission received Mr. Maslan's opinion that EPC does not have jurisdiction over Holly Pond. He said that Town Counsel has advised him that the EPC can assert jurisdiction over Holly Pond as a watercourse. He said the Town has been consistent in asserting jurisdiction over Holly Pond. He said the word "Inland" in the title of the Inland Wetlands and Watercourses Regulations modifies the word "wetlands" and not the word "watercourses".

Mr. Maslan said that between 1993 and 2003 the EPC did not assert jurisdiction over Holly Pond. He said the DEP letter refers to a Chester application for a dock. He submitted a list of DEP demarcations of marine vs. tidal waters for rivers in the state.

Mr. Hillman made a motion to close the public hearing on the Map amendment for Lot 10. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman made a motion to approve the amendment to the Town wetland map. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Udi Sally, Nearwater Lane, asked for clarification if the Commission still had jurisdiction over Holly Pond. Mr. Hillman said yes.

Mr. Peter Van Dijk, Nickerson Lane, said the wetland flags were not on the site plan. Mr. Maslan said the flags were on the survey.

Mr. Hillman said the Commission would discuss the activities on Lot 10.

Don Ferlow, Stearns & Wheler said there was a small portion of the demolition on Lot 10 and the removal of pavement. There are no new activities proposed within 100 feet of Holly Lane on Lot 10.

Mr. Hillman opened the hearing for public comment.

Mr. Saly asked the size of Lot 10. Mr. Maslan said 0.967 4 acres.

Mr. Hillman said the Commission would discuss the request to amend the Town map for Lot 11. He said that Town Counsel reviewed Mr. Maslan's letter regarding jurisdiction and concluded that the EPC should assert jurisdiction.

Mr. Maslan stated his objection for the record.

Mr. Hillman made a motion to close the public hearing on the map amendment portion of the application. Ms. Cameron seconded the motion and it passed unanimously.

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
June 18, 2008
PAGE 6

Mr. Hillman made a motion to approve the amendment to the Town wetland map. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman said the Commission would discuss the activities on Lot 11.

Mr. Maslan said Lot 11 is 0.988 acres in size He introduced Don Ferlow, Stearns & Wheler.

Mr. Ferlow said he is a Certified Professional Wetland Scientist and a Landscape Architect. He described the wetland habitat and the coastal hazard area. He said the lot is currently developed with an extensive lawn area. The proposed garage is over an area that is currently a swimming pool. He said they are providing a level spreader for the discharge from the infiltration chambers. He said they are providing restoration of tidal wetlands. The infiltrator is designed for the first 1" of runoff. He said the plans submitted address the Commission's comments. He discussed the tree removal plan. He said there is no boat ramp on the property but there is an old float. He described the stormwater management plan, the construction sequence, and the cut and fill calculations.

Mr. Hillman opened the hearing to the public.

Mr. Saly said the house is too large to fit on the lot. He said they could fit a house that is outside of the 100 foot setback. He provided a copy of his statement for the record.

Mr. Hillman asked if they have provided an alternatives analysis. Mr. Maslan said that because they are not going to have a significant impact that no alternatives need to be addressed.

Mr. Van Dijk raised FEMA flood issues that were brought up at the P&Z hearing.

The Commission continued the public hearing to July 9.

EPC-26, 2008, Darien YMCA, 2420 Boston Post Road, proposing a building addition within an upland review area.

Attorney Robert Maslan represented the applicant.

Mr. Hillman discussed the issue of the EPC jurisdiction over Holly Pond. He said the Commission is asserting jurisdiction on the advice of Town Counsel.

Mr. Maslan noted his objection for the record based on his argument in the Ross application.

Mr. Maslan provided an overview of the project. He described the existing site conditions. He said a portion of the pool building will be within 100 feet of Holly Pond.

Holt McChord, P.E., McChord Engineering. He said the existing parking lot has underground infiltration. He said there is a level spreader discharge which does not show any sign of erosion at the outlet. He said the new parking lot will have bioswales and there will be new treatment measures for the additional building and parking.

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/PUBLIC HEARING
MINUTES
June 18, 2008
PAGE 7

Mr. Hillman asked if any of the members are members of the YMCA. Mr. Kenyon said he is a member it will not influence his decision. Ms. Kirby said her children are members but that will not influence her decision.

Mr. Maslan said that they have submitted a written response to the Tighe & Bond review.

Mr. Kenyon asked if they could orient the pool building differently to avoid the 100 foot review area. Mr. Maslan said turning the building would block mandatory outside access to the nursery school.

Matt Popp, Environmental Land Solutions described the landscape plan and the proposed plantings along Holly Pond. He said the bioswales will also include native shrubs and plants.

Mr. Hillman opened the hearing for public comment.

Shelia Shaker, 9 Seagate Road, said that they were told to change their house plans to be more than 100 feet from Holly Pond. She asked why the YMCA would not be asked to do the same thing. She asked about the impact of window glare on wildlife and the impact of runoff on Holly Pond.

John Shaker said he did not see the need for a lap pool. He said their property flooded during storms from the parking lot. Mr. Maslan said the drainage controls are now in place to correct that problem.

Mr. McChord said that for the 31,000 sq. ft. increase in impervious coverage they are proposing storage of the first 1" of runoff.

Mr. Kenyon said the applicant should provide a review of alternatives.

Mr. Hillman said the applicant did not need to provide justification for the pool.

The Commission continued the public hearing to June 25.

Mr. Rohr made a motion to adjourn. Mr. Tone seconded the motion and it passed unanimously. The meeting was adjourned at 11:30 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer